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DIGEST OF OTHER RECENT VIRGINIA DECISIONS.**Supreme Court of Appeals.**

Note.—In this department we give the syllabus of every case decided by the Virginia Supreme Court of Appeals, except of such cases as are reported in full.

RAMSAY v. HARRISON.

Sept. 14, 1916.

[89 S. E. 977.]

1. Venue (§ 67*)—Change—Sufficiency of Showing—Local Prejudice.—Motion for change of venue, which Code 1904, § 3316, authorizes to be ordered for good cause shown, is properly denied, where the supporting affidavits state no facts or circumstances from which the conclusion that a fair and impartial right can not be had, but merely the conclusion of affiants that it could not be had because of local prejudice, especially where controverting affidavits are made on knowledge and after observation.

[Ed. Note.—For other cases, see *Venue*, Cent. Dig. §§ 114-120; Dec. Dig. § 67.* 2 Va.-W. Va. Enc. Dig. 876.]

2. Libel and Slander (§ 124 (6*))—Insulting Words—Privilege—Malice.—Though the occasion of the communication, on which an action under Code 1904, § 2897, for insulting words is based, was privileged, there being evidence that the language was disproportional in strength and violence to the occasion, the jury are properly instructed that language so disproportional may raise an inference of malice, whereby the privilege is lost, leaving it to them to say whether such an inference is to be drawn from the language used.

[Ed. Note.—For other cases, see *Libel and Slander*, Cent. Dig. § 367; Dec. Dig. § 124 (6).* 9 Va.-W. Va. Enc. Dig. 274.]

3. Trial (§ 260 (1*))—Instructions—Requests Covered by Other Instructions.—A requested instruction, practically covered by others given, is rightfully refused.

[Ed. Note.—For other cases, see *Trial*, Cent. Dig. § 651; Dec. Dig. § 260 (1).* 7 Va.-W. Va. Enc. Dig. 742.]

4. Evidence (§ 242 (7*))—Principal and Agent (§ 22 (2*))—Declaration of Agent.—There being other evidence that B. was defendant's agent at a wharf, his declaration, relating not to a past transaction, but to his employment concerning the wharf's management, that he was instructed by defendant that plaintiff should receive no fish there is admissible to prove his agency and the alleged instruction.

[Ed. Note.—For other cases, see *Evidence*, Cent. Dig. § 901; Dec.

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

Dig. § 242 (7); Principal and Agent, Cent. Dig. § 40; Dec. Dig. § 22 (2).* 1 Va.-W. Va. Enc. Dig. 248.]

5. Evidence (§ 119 (3)*)—*Res Gestæ*.—Where the communication, on which an action for insulting words is based grew out of the occupancy by plaintiff and his wife of defendant's farm, on her request that they should occupy and manage it, in her absence, a letter of plaintiff's wife to defendant in reply to one to her, telling her not to have certain persons visit her at the farm, is admissible as part of the *res gestæ*.

[Ed. Note.—For other cases, see Evidence, Cent. Dig. §§ 305, 306; Dec. Dig. § 119 (3).* 11 Va.-W. Va. Enc. Dig. 910.]

6. Appeal and Error (§ 690 (4)*)—Record—Questions Reviewable—Absence of Evidence.—An assignment of error to a ruling, admitting evidence to show exercise of authority, cannot be considered; the bill of exceptions on which the assignment is based containing no evidence showing such exercise of authority.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. § 2899; Dec. Dig. § 690 (4).* 1 Va.-W. Va. Enc. Dig. 546.]

7. Libel and Slander (§ 120 (1)*)—Insulting Words—Punitive Damages.—Plaintiff, in an action under Code 1904, § 2897, for insulting words, may be given punitive damages, though he prove no actual pecuniary loss, and admits that he was not, by the letter complained of, injured or damaged in his reputation among his neighbors.

[Ed. Note.—For other cases, see Libel and Slander, Cent. Dig. § 350; Dec. Dig. § 120 (1).* 9 Va.-W. Va. Enc. Dig. 283.]

8. Libel and Slander (§ 121 (1)*)—Insulting Words—Excessive Damages.—Under the evidence in an action under Code 1904, § 2897, for insulting words, held a verdict for \$2,500 could not be said to be excessive.

[Ed. Note.—For other cases, see Libel and Slander, Cent. Dig. § 353; Dec. Dig. § 121 (1).* 9 Va.-W. Va. Enc. Dig. 280.]

Error to Circuit Court, Charles City County.

Action by Hugh T. Harrison against Mrs. Clarise H. Ramsay. Judgment for plaintiff, and defendant brings error. Affirmed.

SINCLAIR *v.* FAIRFAX.

June 8, 1916.

[89 S. E. 1070.]

Appeal and Error—Necessity of Exception in Lower Court.—No informality in the record can be taken advantage of unless excepted to. [Ed. Note.—For other cases see 1 Va.-W. Va. Enc. Dig. 552.]

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.